

CHAPTER 80-8-1

AGENCY ORGANIZATION, METHODS, ETC.

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80-8-1-01 Organization.

(1) The Department of Banking and Finance (DBF) is organized pursuant to the provisions of O.C.G.A. §7-1-30 and is charged with the responsibility of supervising the activities of depository financial institutions and certain other financial entities operating pursuant to the provisions of O.C.G.A. Title 7.

(2) The administration of DBF is under the direction of the Commissioner of Banking and Finance. The Commissioner is assisted by a Senior Deputy and Divisional Deputies in the areas of Administration, Legal and Consumer Affairs, Non-Depository Financial Institutions, and Financial Institution Supervision. The Financial Institutions Supervision Division administers laws, regulations and supervisory matters relating to credit unions, banks, international financial institutions, trust companies, holding companies and state savings and loan associations; and processes applications for such entities. The state is geographically divided into districts or divisions, each of which is administered by a District Director. Legal and Consumer Affairs is responsible for legal matters in consultation with the Attorney General's office and for responses to complaints and questions from consumers regarding the entities regulated. Non-Depository Financial Institutions is responsible for regulation and supervision of mortgage lenders and brokers under the Georgia Residential Mortgage Act; and the regulation and supervision of money service businesses, including check cashers, check sellers, and money transmitters. Administration is responsible for personnel and all budgetary matters.

(3) The DBF is funded entirely from the examination, supervision, licensing and other fees paid by supervised financial institutions and other entities under its jurisdiction, and operates under the budgetary system of the state of Georgia.

Authority Ga. L. 1964, p. 338; 1974, p. 733.

80-8-1-02 Methods.

(1) The DBF fulfills its responsibilities under Title 7 of the Official Code of Georgia Annotated through direct examination and investigation of financial institutions and other licensees, applications submitted by such institutions, and through administrative analysis of data submitted by such institutions.

(2) Direct examination and investigation of financial institutions and other licensees is conducted by a staff of professional examiners knowledgeable in financial analysis, credit evaluation, applicable law, and operating practices and controls of regulated entities. Examinations and investigations of financial institutions are coordinated with appropriate federal financial regulatory authorities having concurrent jurisdiction. Forms and methods utilized in carrying out examination activities are standardized with federal agencies; however, DBF may have supplementary forms and procedures as circumstances and regulatory requirements demand. Coordination of examination activities with federal regulatory agencies is designed to minimize unnecessary duplication of activities while providing all agencies the data necessary to fulfill their separate responsibilities. The Department publishes a Statement of Policies which details guidelines and interpretations in a number of areas relating to its examination, supervision and investigative duties. The Statement of Policies is updated and revised from time to time as required by industry and economic changes and is available through the Department and on its website. The Department also publishes an Applications Manual, available at its website, which details requirements for all applications and refers to relevant code sections.

Authority Ga. L. 1964, p. 338; 1974, p. 733.

80-8-1-03 Requests and Inquiries.

Specific information and inquiries concerning the activities of the DBF may be obtained by writing the Department of Banking and Finance, Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Requests for forms for submission of applications for approval to establish or expand a financial institution are governed by provisions of Chapter 80-1-1. Forms are available at the Department's website. Information concerning the internal affairs of a financial institution and the results of the examination and investigation activities of DBF are confidential as provided by Code Section 7-1-70 of the Official Code of Georgia Annotated.

Authority Ga. L. 1964, p. 338; 1974, p. 733.

80-8-1-04 Petition for Promulgation, Amendment, or Repeal of Rules.

(1) Any affected party may petition the DBF to promulgate, amend or repeal a rule or regulation. Such petition shall be submitted to the DBF and shall be in writing, signed by the petitioner(s). Such petition shall state concisely the proposed change, the legal authority under which the DBF could implement such change, and a detailed discussion of the positive and negative implications of the proposed change.

(2) Within thirty (30) days of receipt of the petition or supplemental information, DBF shall either request additional information of the petitioner(s), deny the petition, or advise the petitioner(s) that DBF is initiating Administrative Procedures Act processes to propose the change requested; provided, however, if the DBF determines that a request for opinion in the matter should be made to the Attorney General, such thirty-day (30) period shall not begin to run until the DBF has received a response from the Attorney General.

Authority Ga. L. 1964, p. 338; 1976, p. 733.

80-8-1-05 Petition for Declaratory Ruling.

Any affected party may petition the DBF for a declaratory ruling as to the applicability of any provision of law subject to the administration of the DBF or any Rule, order or policy of the DBF. Such petition shall be in writing, signed by the petitioner(s), and shall state concisely the situation involved and the law, rule or policy in question. Petitions shall be filed and processed in accordance with the provisions of Rule 80-8-1-04.

Authority Ga. L. 1964, p. 338; 1974, p. 733.

80-8-1-06 Meetings.

(1) The Department of Banking and Finance has no governing board. It holds meetings to approve proposed rules. Such proposed rules are distributed from time to time in a special edition of the Department's bulletin to all affected entities regulated or supervised by the Department, and any other parties who have requested the bulletin. At least 30 days is given for the Department to receive comments. A notice giving the time and place (generally, the offices of the Department) for a meeting to finally approve or disapprove the proposed rules is given. Such meeting is held and following the approval of the rules in final form, such rules are again distributed. The public is invited to this final meeting, although comments during the comment period are encouraged, and the Department thoroughly reviews and evaluates all submitted comments.

(2) Notice of other matters such as applications for a new charter and other applications are published in the Department's monthly bulletin. Applications may require the applicant to publish a legal notice. The notice may request comments to be made to the regulator(s). The Department gathers comments on these applications and if necessary and requested, may hold a public hearing on an application (DBF Rule 80-1-1-05). Information contained in applications is confidential except as provided in DBF Rule 80-1-11-01. Public comment is encouraged in accordance with statutes and regulations in a format which recognizes the need of the Department of Banking and Finance to receive the highest quality of factual information and points of view precedent to its taking action as well as the confidential and proprietary nature of certain portions of that information. A final decision on an application is made by the Commissioner or his delegate and no meeting is held.

(3) Final actions taken by the Commissioner will, as required by law, be based upon the contents of the applications, both public and confidential, confidential file information relating to the applicant(s), public comment and applicant rebuttals where appropriate, confidential investigatory findings and confidential staff recommendations. Final action shall be recorded in minutes maintained by the Department and available for public inspection following the decision.

(4) In the course of fulfilling statutory responsibilities, the Commissioner or his designee will from time to time meet with Department of Banking and Finance personnel, representatives of other state and federal regulatory agencies, representatives of supervised institutions or proposed

institutions, and customers of such institutions. Final action of a remedial or disciplinary nature may be taken at such meetings. Such meetings whether in consideration of statutory actions, supervisory actions, or remedial consultation shall be deemed confidential and not open to the public pursuant to the provisions of Section 7-1-70, O.C.G.A.

Authority Ga. L. 1974, p. 733; 1988, Act 916.